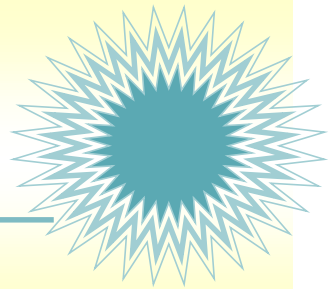


Ethics News

Newsletter of the Indiana State Ethics Commission

Issue No. 26

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Help Wanted!

It was a normal day, no more hectic than any other, when Jamie Parker, investigator/trainer/director for the **ACME State Ethics Commission**, was startled by a sound much like that of a fax machine. Reaching for her glasses as she raced toward the source of the sound, Jamie realized that it indeed was the fax machine.

Steadying her hands as she gripped the fax, Jamie was stunned by the cover letter: "To Whom It May Concern." As her eyes darted to the second page, they revealed what Jamie had feared: "A Request to Investigate."

Request to investigate! But what was there to investigate? In her 15 years on the job with the Commission, Jamie had maintained a training program making all employees aware of ACME state ethics laws. Jamie had never received a single complaint. Until now, the conduct of ACME employees had been ethical and beyond reproach.

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As Jamie read on, the complaint listed several alleged violations against Benny B. Goode, Director of the Department of Interstate Commerce and Trucking. The complainant contended that Benny:

- (1) Had received a leather coat from his wife, which was valued at \$450. (Benny's wife owns a small fleet of trucks, which are regulated by Benny's department.) In his excitement, Benny had worn the coat to work with the price tag still on the sleeve. (See [40 IAC 2-1-6](#))
- (2) Had received special terms when he used a discount coupon, found in the state's official employee newsletter, to take his kids to King's Island. (See [40 IAC 2-1-9\(e\)](#))
- (3) Had a conflict of interest when he submitted his resume in response to an advertisement that mentioned the job but did not give the name of the company. (See [IC 4-2-6-9](#))

Armed with this information, Jamie began her search for the facts. Jamie's report to the Commission, of which she was the sole member, resulted in a vote for a full investigation.

Upon the conclusion of the investigation, Jamie found probable cause and scheduled a public hearing for the next monthly meeting. Being the only member of the Commission now had its drawbacks. Jamie couldn't be both judge and jury, so she decided to seek help. Jamie put an ad in "Ethics News" (the official newsletter of the *Indiana State Ethics Commission*) asking state workers to judge the outcome of the allegations. The ad read:

Wanted

Indiana state employees willing to share their opinions regarding the case of Benny B. Goode. Requirements: Research the Indiana state ethics rules that apply to the above allegations, form an opinion, and submit it to "Ethics News." Opinions may include arguments as to why a certain rule is "fair" or "unfair," if a rule should be changed, or any other thoughts on the rules and situations.

If you would like to help Jamie resolve this case, send your opinions to: mhill@ethics.state.in.us. Note: Depending on the number of applicants and credible opinions, the Ethics Commission may be able to acknowledge participants in some appropriate manner.

Recent Enforcement Proceedings

The State Ethics Commission adopted the following reports regarding five individual respondents, all of whom had waived their right to a public hearing, and entered into agreed settlements.

Case 01-C-2, Political Activity, 40 IAC 2-1-7.1

On the June 13, 2002, the Commission accepted three proposed Agreed Settlements and found, after its preliminary investigation, probable cause to support alleged violations against three Corrections Captains with the Department of Correction (DOC).

The three respondents were found to be in violation of 40 IAC 2-1-7.1 for engaging in political activity on state time.

While representing DOC in their official capacities at mandatory training sessions (August 20-22, 2000), two respondents communicated partisan comments concerning the Governor's race in the upcoming election and one respondent communicated comments concerning the Governor and the status of DOC.

The agreed settlements approved on July 11, called for the respondents to receive written counseling from a supervisor in DOC and to attend an ethics training class.

Agreed Settlements (40 IAC 2-3-3)

At an informal conference to negotiate, no record is made and no statement made by any person at such conference will be used as evidence in any subsequent public hearing or proceeding.

If the respondent and the chairman or his designee concur that an agreed settlement would be appropriate, a proposal is submitted in writing to the Commission for its approval or disapproval by majority vote. In either case, the Commission states its findings in a written report, signed by a majority of the Commission members. The report may make a recommendation for sanctions to be imposed.

The report is open to public inspection as a public record and is sent to the respondent; the appointing authority or state officer of the employee; former employee; or special state appointee; and the governor.

Case 01-C-8, Conflict of Interest, 40 IAC 2-1-9

On September 12, 2002, the Commission approved an Agreed Settlement involving an IMPACT Field and Technical Consultant with the Family and Social Services Administration.

As part of the consultant's duties, she worked with various IMPACT programs, including one such program that assisted clients with housing needs, clothing, transportation, and other needs associated with job training.

During the program's training class, the consultant spoke to individuals and a client in

need of housing. The consultant provided the class with information about apartments and houses that were for rent. She contacted the resident manager for an apartment complex to find out the availability of housing at the complex.

In speaking with the resident manager, the Consultant inquired about the application process, down payments, monthly payments, referral and finder's fees. The resident manager, subsequently checked with her supervisor and learned that a \$50 finder's fee would be paid if the apartment were accepted.

The consultant admitted to the State Ethics Commission investigator that the question of a finder's fee had been asked. By soliciting a finder's fee for referring clients of the Division of Family and Children (DFC) to a private housing entity, the consultant was in violation of 40 IAC 2-1-9(b), conflict of interest. Consultant received disciplinary action in the form of a written reprimand from a DFC supervisor.

Case 02-C-5, 40 IAC 2-1-9, Conflict of Interest

The State Ethics Commission approved on July 11, 2002, an agreed settlement proposed by a director with the Department of Workforce Development (DWD). The director makes decisions regarding the promotion and discipline of his subordinates.

The director's wife is a cosmetics sales representative and has been for approximately the past ten years. She developed her customers while working with them as an employee of the Private Industry Council. The director has distributed his wife's cosmetic catalogs to other DWD employees at his DWD offices.

The director, on behalf of his wife, has accepted orders and checks for cosmetic products from his fellow DWD employees and subordinates during the past decade.

By using state email, the director notified subordinates of an opportunity to buy raffle tickets for a parochial school raffle in which he was involved.

The director's selling of the above-referenced cosmetic products at the DWD was in violation of 40 IAC 2-1-9(f). His use of his state-issued computer to send email messages related to school money raffles was in violation of 40 IAC 2-1-9(g).

In the Agreed Settlement, the director agreed to a letter of reprimand from a DWD supervisor; to refrain from accepting cosmetic orders, distributing cosmetic catalogs, and making cosmetic product deliveries at DWD offices; and to refrain from selling any type of raffle tickets at DWD offices.

Case 00-C-10, IC 4-2-6-11, Post-Employment Restriction

The State Ethics Commission approved on September 12, 2002, an agreed settlement proposed by a former employee with the Indiana Department of Environmental Management (IDEM). The former employee's primary responsibilities were related to case management. In October of 1998, the former employee was assigned to a case involving a company that allegedly had an ongoing discharge of PCB's which ultimately discharged in nearby Sugar Creek. The case involved various environmental issues, including issues related to public and aquatic health.

The former employee remained on the case until December of 1999, when he resigned from the state to take a position as an independent contractor with an engineering firm. The engineering firm was a consultant to the above company that was fined by IDEM in 1998. In September of 1999, the former employee communicated with IDEM legal staff to update the civil penalty previously imposed on the company in 1998.

The former employee was found in violation of the post-employment restriction when he did not wait twelve months from the time he no longer had responsibility for his assigned case before “representing and assisting” his engineering firm on that matter he was involved with as a state employee. Instead of waiting twelve months from his termination date (December 1999), the former employee contacted IDEM personnel in September of 2000 to obtain IDEM public documents pertinent to the company’s PCB case.

The State Ethics Commission approved an agreed settlement in which the former employee agreed to a civil penalty of \$500.

Case 02-C-18, IC 4-2-6-8, Financial Disclosure

On September 12, 2002, the Commission approved an agreed settlement in which a state employee was fined \$280 for failing to file his financial disclosure statement in a timely matter. The employee filed his statement covering the year 2001 ten days past the due date of February 1, 2002.

State employees required to file financial disclosures are subject to a civil penalty at a rate of not more than ten dollars (\$10) for each day the statement remains delinquent or deficient. The maximum penalty under the law is one thousand dollars (\$1,000).



For information on investigations, go to [40 IAC 2-3-2](#).

To file a complaint with the Ethics Commission, click on [Request to Investigate](#).

Commission Establishes Fine Collection Policy

What happens when an employee, assessed a fine due to an ethics violation, does not pay on time?

- (1) If the fine is not received by the due date, the employee will receive a warning letter.
- (2) Fifteen (15) days following the due date, a letter, to be placed in the employee’s file, will be sent to the employee’s agency head.
- (3) Thirty (30) days after the due date, the Attorney General’s office will be notified and asked to garnish the employee’s wages.

Unofficial Advisory Opinions

This article briefly reviews questions recently addressed by the Ethics Commission staff. These opinions are not intended as a comprehensive analysis of the issue raised. For more information on whether and how this information may apply in another situation, contact your agency ethics officer or the State Ethics Commission.

#103

An employee who is leaving state government has accrued vacation time in excess of the vacation time for which he would be compensated. He would like to start a new job while on vacation time from his state agency. Since the State Ethics Commission does not set vacation policies for the various agencies, the employee was referred to her agency ethics officer and personnel office.

#90

A supervisor in child welfare wants to give a bed to a client whom she does not supervise. The client is under consideration from the courts to having her children placed in her home. (The children were recently removed from the client's ex-husband's home.) The client needs to obtain beds for her children and the child welfare supervisor is willing to donate one to her.

Conflict rules deal with financial gains. Giving a bed to the client does not appear to be a conflict, especially since the supervisor is not involved in the case. The supervisor was advised to check her agency rules on the matter.

#89 Nepotism, IC 4-15-7-1

An interim director of a state agency appointed six months ago, wants to hire her daughter for an entry level position in the agency. The director also wants to know if one of her employees who has recently married the director's son can remain employed with the agency. The "new" daughter-in-law has been in her position with the agency for two years.

The nepotism law does not allow the daughter of an agency head to be eligible to any position in that agency. Hence, the interim director may not hire her daughter.

Since the "new" daughter-in-law has worked for the agency for at least 12 consecutive months immediately preceding the appointment of her "new" relative, the law allows her to continue her employment.

Commission meetings are open to the public and held the second Thursday of the month. Normal starting time is 10:00 a.m.



Correction



I reviewed your ethics newsletter this morning and took the ethics quiz (see Ethics News June 2002). For your answer to the question regarding religious discrimination on the job, the correct referral is the Equal Employment Opportunity Commission (EEOC), located at 101 W. Ohio St., Indianapolis, IN 46204, (800)669-4000, or the Indiana Civil Rights Commission (ICRC), 100 N. Senate Ave, Room N103, Indianapolis, IN 46204, 1(800)628-2909 or (317)232-2600.

Both agencies have jurisdiction over employers of 15 or more employees; the ICRC has jurisdiction over employers who have 6 or more employees. The ICRC also handles cases of discrimination in the areas of housing, public accommodation, credit and education, on the basis of race, religion, national origin, sex, disability, familial status (in housing) or retaliation.

Sincerely,
Lorraine Hitz-Bradley
Supervising Attorney
ICRC

Thank You!

Year End Classes Open

Ethics Orientation (10:00 - 11:00 a.m.)	Oct. 29
Ethics for Supervisors (10:00 - 12:00 p.m.)	Oct. 16
Ethics for Managers (10:00 - 12:30 p.m.)	Oct. 10

Classes are in the State Conference
Center or Training Center
Indiana Government Center South
402 W. Washington St., Indianapolis, IN

Please check directory for room location.

To register, call (317) 232-3850 or visit our
Web site at www.ethics.IN.gov

Please send your questions or comments to: Mary Hill

email: mhill@ethics.state.in.us, or

call: (317) 232-3850, or

write: Indiana State Ethics Commission
402 W. Washington St., Rm. W189
Indianapolis, Indiana 46204



For more information on ethics,
log on to www.ethics.state.in.us.



To be good, and do good, is all we have to do.

— John Adams